

Under 35 U.S.C. § 103(c)(1), as amended by the CREATE Act of 2004, which also extended the applicability of 35 U.S.C. § 103(c)(1) to all applications pending on its effective date of December 10, 2004, a reference is not citable against an application under 35 U.S.C. § 103(a) if the invention described in the application for patent and the invention described in the prior art reference applied against the application were commonly owned by, or subject to an obligation of assignment to, the same person, at the time the invention in the application for patent was made. See USPTO "Frequently Asked Questions" about 103(c), <http://www.uspto.gov/web/offices/dcom/olia/aipa/103cfaq.htm>.

The present application is assigned to Cisco Technology, Inc., a wholly owned subsidiary of Cisco Systems, Inc., San Jose, California, as stated in the assignment recorded in the USPTO at reel 015200, frame 0111. The assignee on the face page of *Fan* is also Cisco Technology, Inc. Further, at the time that the invention presented in the present application was made, all inventors were under an obligation to assign any later patent application to Cisco Technology, Inc., so that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.

Therefore, all requirements of 35 U.S.C. § 103(c)(1) are satisfied in the present case with respect to *Fan*, and *Fan* is ineligible as a reference. Applicants respectfully request reconsideration and removal of *Fan* as a reference.

For the reason set forth above, all of the pending claims are in condition for allowance. The Examiner is respectfully requested to contact the undersigned by telephone relating to any issue that would advance examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If applicable, a check for the petition for extension of time fee and other applicable fees is enclosed herewith. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to any applicable fees and

to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,
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